IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

CIVIL REVISION APPLICATION NO. 195 OF 2004

V.P. Timber and Ors. ....

Applicants

Versus

Indo Commercial Society Pvt. Ltd. ...Respondent

Mr. V.S. Gokhale for the Applicants.
Mr. Rahul Mehta, instructed by M/s. Mulla & Mulla & Cragie Blunt & Caroe, for the Respondent.

CORAM: **DR. D.Y. CHANDRACHUD, J.**
DATE: **DECEMBER 21, 2005**.

P.C.

The application for restoration of the suit which was dismissed by the Learned Trial Judge (an application for adjournment was refused) is still pending before the Civil Judge, Senior Division, Nashik. At that stage, an objection that was raised by the Applicants to the maintainability of the application for restoration was taken up and rejected. The resulting position is that the main application is still to be taken up for hearing by the Learned Trial Judge. In my view, the ends of justice would be served by directing that the Learned Trial Judge shall hear and dispose of the application for restoration in its entirety, having due regard to the objections that have been raised by the Applicants herein to the aforesaid application.

2. The Learned Counsel appearing on behalf of the Respondent has no objection to a direction by this Court that the trial Judge shall dispose of the application for restoration, uninfluenced by any of the observations contained in the impugned order dated 20th October, 2004.

3. In the circumstances, the Civil Revision Application is disposed of with a direction that the Learned Trial Judge shall hear and dispose of the application for restoration and, while doing so, shall duly consider all the objections which have been raised by the Applicants including those in regard to the maintainability of the application. While doing so, the Learned Trial Judge shall not have regard to the reasons contained in the impugned order dated 20th October, 2004, and the disposal of this Civil Revision Application shall not be construed as the expression of any opinion by this Court on the correctness of the objections that have been raised by the Applicants. The Civil Revision Application is accordingly disposed of.